

**REMARKS**

Claims 1 through 20 are pending in this application.

In Paper No. 05302005, the Examiner required a restriction between:

Group I:        Claims 1 through 15, drawn to a flat panel display device, classified in Class 313, Subclass 496; and

Group II:       Claims 16 through 20, drawn to a method for manufacturing a flat panel display device, classified in Class 445, Subclass 52.

Applicant respectfully traverses the election requirement imposed in Paper No. 05302005, but provisionally elects, with traverse, Group I, claims 1 through 15, directed to a flat panel display device.

Applicant objects to and traverses the election requirement on the grounds that the subject matter of the two groups overlap. In addition, the mandatory fields of search for the two embodiments are coextensive. Finally, it appears that the election requirement is being imposed merely for administrative convenience and such a basis for imposition of such a requirement has been prohibited in previous decisions of the Commissioner.

As specifically stated in *MPEP* §803, the Examiner must show that the (A) the inventions

must be independent (*see MPEP* §802.01, §806.04, §808.01) or distinct as claimed (*see MPEP* §806.05 - §806.05(i)); **and** (B) there must be a **serious burden** on the Examiner if restriction is required (*see MPEP* §803.02, §806.04(a) - §806.04(i), §808.01(a), and §808.02).

It is respectfully submitted that there would **not be a serious burden** upon the Examiner in searching the invention species (a) through (g).

**Firstly**, the Examiner has failed to show any kind of burden. The Examiner has failed to show that the different embodiments are in different classes or that such search would require not just a burden but rise to level of a serious burden. As stipulated in *MPEP* §803, if the search can be made without serious burden, the Examiner **must examine it on the merits** even if there are separate and distinct inventions. The Examiner has not alleged any serious burden in Paper No. 05302005 mailed on 10 August 2005 and thus the Examiner must examine the entire application. Moreover, because no burden was shown, if the restriction is not withdrawn in the next office action, a finality on the restriction requirement cannot be made according to *MPEP* §706.07.


**Secondly**, as seen above, for example, in Group I, claims 1 through 15 are also in Group II, claims 16 through 20. Any assertion by the Examining Staff that the burden of an examination absent restriction has risen to level of a *serious* burden is seriously suspect, especially in light of the generic claims involved. Therefore, there would be no serious burden on the Examiner and as required by *MPEP* §803, the Examiner must examine the entire application on the merits.

If the requirement for restriction is not removed, then the Applicant reserves the right to petition the requirement, because there is no *serious* burden upon the Examiner in searching the invention set forth in Groups I and II.

Therefore, the Applicant respectfully submits that the restriction requirement should be removed.

In view of the above, it is requested that the election requirement be withdrawn. It is further submitted that the application is in condition for examination on the merits, and early allowance is requested.

Respectfully submitted,



Robert E. Bushnell,  
Attorney for the Applicant  
Registration No.: 27,774

1522 "K" Street N.W., Suite 300  
Washington, D.C. 20005  
(202) 408-9040

Folio: P56908  
Date: 9/12/05  
I.D.: REB/kf/fw